

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BEGASHAW AYELE,

Plaintiff,

V.

COGNISA SECURITY COMPANY, INC., )

Defendant.

Civil Action No.: 04CV12217-PBS

**DEFENDANT’S EMERGENCY MOTION  
TO QUASH THE SUBPOENA SERVED ON  
COMPLIANCE NETWORK, AND FOR AN ORDER REQUIRING  
PLAINTIFF TO SERVE ALL DISCOVERY REQUESTS ON DEFENDANT**

Defendant Cognisa Security Company, Inc. (“Cognisa”) hereby moves to quash the Subpoena served on Compliance Network for the following reasons:

1. Attached hereto as Exhibit “A” is a copy of a Subpoena served on Compliance Network. It appears from the face of the Subpoena that it was issued by the Plaintiff on June 24, 2005. Notice of the Subpoena was never provided to counsel for Cognisa. Rather, the first time counsel for Cognisa received a copy of the Subpoena was on July 8, 2005 via the Court’s electronic filing notice. Pursuant to Fed. Rules Civ. Proc. 5, “every order required by its terms to be served, every pleading subsequent to the original complaint ..., every paper relating to discovery to be served on a party ..., every written notice, ... and similar paper shall be served upon each of the parties.” Because notice was never given to counsel for Cognisa, Plaintiff’s Subpoena is in violation of that rule, is of no legal effect, and should be quashed.

2. The period for taking discovery in this case closed on May 31, 2005. Although the Court (Bowler, M.J.) did extend discovery on a limited basis “until August 5, 2005, for the sole purpose of taking the depositions of Nicole Downs, Aaron Field, Gary Feldman and George Cintrol” this extension does not permit Plaintiff to subpoena documents from Compliance Network.

3. In the Subpoena, Plaintiff seeks drug test records for five (5) individuals. None of these individuals has ever been identified by Plaintiff in his automatic discovery disclosures, answers to interrogatories, or deposition testimony as individuals with knowledge of the facts of this case. Accordingly, the documents sought by Plaintiff are irrelevant to this action.

4. In the discovery dispute conference, Plaintiff took the position that he was not required to serve a copy of the Subpoena on Cognisa, or otherwise notify Cognisa of the Subpoena.

WHEREFORE, Cognisa requests that the Subpoena to Compliance Network be quashed, that Plaintiff be ordered to serve notice of all Subpoenas to third parties, and that Cognisa be awarded its reasonable attorneys' fees for filing this motion.

Respectfully submitted,

COGNISA SECURITY, INC.

By its attorneys

/s/Bronwyn L. Roberts

Bronwyn L. Roberts, BBO# 638079

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Dated: July 11, 2005

**CERTIFICATION UNDER L.R. 7.1(A)(2), 26.2(C) AND 37.1(A)**

The undersigned hereby certifies that counsel for defendant Cognisa Security, Inc. conferred with the Plaintiff in good faith to resolve or narrow the issue raised by this motion. The parties were unable to reach agreement.

/s/ Bronwyn L. Roberts

Bronwyn L. Roberts, BBO# 638079

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## CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system.

I further certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant:

Begashaw Ayele  
261 O'Callaghan Way #816  
South Boston, MA 02127

John Quintal, President  
Compliance Network of New England  
15 Court Square, LL 1  
Boston, MA 02108

/s/Bronwyn L. Roberts  
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